HON'BLE THE CHIEF JUSTICE SHRI G.S. SINGHVI
AND
HON'BLE SHRI JUSTICE C.V. NAGARJUNA REDDY

Writ Petition No. 15586 of 2007

Between:
Dasari Bhagyalaxmi

... Petitioner

and

Municipal Council,
Jagitial, Karimnagar District

... Respondent

:: O R D E R ::

Counsel for the petitioner : Shri C. Ramesh Sagar

Counsel for the respondent : Shri Polisetty Radha Krishna

July 24, 2007

Per G.S. Singhvi, CJ

This is a petition for quashing provisional order dated 07.07.2007 and final order dated 13.07.2007 passed by Commissioner, Jagitial Municipality (the respondent) under Section 228(1) and (2) and Section 228(3) respectively of the Andhra Pradesh Municipalities Act, 1965 (for short, 'the Act') for removing the alleged violations made by the petitioner while constructing building over property bearing H.No.1-1-197 situated at Yavar Road, Jagitial town, Karimnagar District.

At the hearing, we pointed out to Shri P. Radha Krishna, learned Standing Counsel for Jagitial Municipality that provisional as also the final order passed by the Commissioner do not specify the nature of violations and, therefore, the same may have to be annulled.

Shri P. Radha Krishna responded to the Court's observation by saying that the respondent will pass fresh orders under Sections 228(1) and (2) and 228(3) and called upon the petitioner to remove the specific violations.

In view of the fair stand taken by the learned Standing Counsel for the respondent, the writ petition is disposed of with the following directions:

(1) Within seven days from today, the respondent may issue fresh notice to the petitioner specifying therein the particular violations of the sanctioned building plan.

(2) Within next two weeks, the petitioner may submit her explanation.

(3) Within two weeks of the submission of the reply by the petitioner, the competent authority shall pass appropriate order.

(4) If the concerned authority comes to the conclusion that the petitioner has raised construction in violation of the sanctioned plan, then she may be given reasonable time to voluntarily remove the same.

(5) If the petitioner fails to remove the violations, it will be open to the competent authority to remove the illegal/unauthorized construction and recover cost of the removal operation from the petitioner.

(6) If the petitioner challenges the final order which may be passed by the competent authority under Section 228(3) of the Act by

filing suit, then the concerned Court shall pass appropriate order only after giving notice and opportunity of hearing to the Municipality.

As a sequel to disposal of the writ petition, W.P.M.P.No.19725 of 2007 filed by the petitioner for interim relief is dismissed.

G.S. SINGHVI, CJ

C.V. NAGARJUNA REDDY, J

July 24, 2007

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